

**CERTIFICATE OF MAILING**

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Sharon L. Tabor  
Sharon L. Tabor

Attorney Docket No. 741890-23



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re PATENT application of )  
Martin CALDWELL et al. ) Confirmation No. 4375  
Application No. 10/048,165 ) Group Art Unit: 3731  
Filed: January 29, 2002 ) Examiner: Bradford C. Pantuck  
For: A SURGICAL ACCESS DEVICE )

**RESPONSE TO ELECTION REQUIREMENT**

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**APR 20 2004**

**TECHNOLOGY CENTER 3700**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the election requirement set forth in the Office Action mailed February 13, 2004, Applicants hereby elect Group 1, the invention according to claims 1-26 for examination on the merits. Applicants reserve the right to file one or more divisional applications to the non-elected embodiments of Groups 2 and 3.

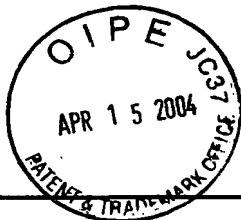
Prompt examination of the application is respectfully requested.

Respectfully submitted,

Tim L. Brackett, Jr.  
Registration No. 36,092

NIXON PEABODY LLP  
401 9th Street, N.W., Suite 900  
Washington, D.C. 20004-2128  
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(202) 585-8080 (Fax)

Dated: April 13, 2004



373118

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/048,165
		Filing Date	January 29, 2002
		First Named Inventor	Martin CALDWELL
		Group Art Unit	3731
		Examiner Name	Bradford C. Pantuck
Total Number of Pages in This Submission	6	Attorney Docket Number	741890-23

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
Remarks		<input checked="" type="checkbox"/> The Director is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 for the above identified docket number.

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APR 28 2004

TECHNOLOGY CENTER 3700

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Tim L. Brackett, Jr., Reg. No. 36,092 Nixon Peabody LLP 401 9th Street, N.W. Suite 900 Washington, D.C. 20004-2128
Signature	
Date	April 13, 2004

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Name (Print/Type)	Sharon L. Tabor	
Signature		Date April 13, 2004



# FEE TRANSMITTAL for FY 2004

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 55.00)

Complete if Known

Application Number 10/048,165  
Filing Date January 29, 2002  
First Named Inventor Martin CALDWELL  
Examiner Name Bradford C. Pantuck  
Art Unit 3731  
Attorney Docket No. 741890-23

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 19-2380 (741890-23)

Deposit Account Name Nixon Peabody LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ )

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims  -20\*\* =  X  =   
Independent Claims  - 3\*\* =  X  =   
Multiple Dependent  X  =

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ )

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description
1051	130	2051	65	Surcharge - late filing fee or oath
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet
1053	130	1053	130	Non-English specification
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action
1251	110	2251	55	Extension for reply within first month
1252	420	2252	210	Extension for reply within second month
1253	950	2253	475	Extension for reply within third month
1254	1,480	2254	740	Extension for reply within fourth month
1255	2,010	2255	1,005	Extension for reply within fifth month
1401	330	2401	165	Notice of Appeal
1402	330	2402	165	Filing a brief in support of an appeal
1403	290	2403	145	Request for oral hearing
1451	1,510	1451	1,510	Petition to institute a public use proceeding
1452	110	2452	55	Petition to revive - unavoidable
1453	1,330	2453	665	Petition to revive - unintentional
1501	1,330	2501	665	Utility issue fee (or reissue)
1502	480	2502	240	Design issue fee
1503	640	2503	320	Plant issue fee
1460	130	1460	130	Petitions to the Commissioner
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)
1806	180	1806	180	Submission of Information Disclosure Stmt
8021	40	8021	40	Recording each patent assignment per property (times number of properties)
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))
1801	770	2801	385	Request for Continued Examination (RCE)
1802	900	1802	900	Request for expedited examination of a design application

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 55)

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Sharon L. Tabor  
Sharon L. Tabor

## SUBMITTED BY

Name (Print/Type) Tim L. Brackett, Jr.

Registration No. 36,092  
(Attorney/Agent)

Complete (if applicable)

Telephone (202) 585-8000

Signature

Date April 13, 2004